



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 7, 2019

Ms. ~~Erin D. Thorn~~
~~Assistant District Attorney~~
~~Hidalgo County~~
~~100 East Cano~~
~~Edinburg, Texas 78539~~

OR2019-00378

Dear Ms. Thorn:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 744856 (ORR# 2018-0161-DA.SO).

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for all documents referencing Hawk Analytics, Inc. ("Hawk") and a specified product, including any contracts, subscriptions, e-mails, training documents, and statistical reports. Although the sheriff's office takes no position regarding whether the submitted information is excepted from disclosure, you state its release may implicate the proprietary interests of Hawk. Accordingly, you state, and provide documentation showing, you notified Hawk of the request for information and of its right to submit arguments to this office. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note you have not submitted information responsive to the portion of the request pertaining to the contract. To the extent any information responsive to this portion of the request existed on the date the sheriff's office received the request, we assume the sheriff's office has released it. If the sheriff's office has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) of the Government Code to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this ruling, we have not received comments from Hawk explaining why the information at issue should not be released. Thus, we have no basis to conclude Hawk has a protected proprietary interest in the submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Therefore, the sheriff's office may not withhold the submitted information on the basis of any proprietary interest Hawk may have in the information.

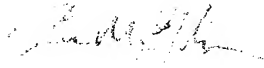
We note some of the information at issue may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. As no exceptions to disclosure are raised, the sheriff's office must release the submitted information; however, any information protected by copyright may only be released in accordance with copyright law.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James M. Graham
Assistant Attorney General
Open Records Division

JMG/som

Ref: ID# 744856

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)

